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10/806,021	03/22/2004	Nathanael F. Ehrich	RSW920040002US1	1974

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IBM CORPORATION - RSW (JVL)
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EXAMINER

SHIU, HO T

ART UNIT	PAPER NUMBER
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2457

MAIL DATE	DELIVERY MODE
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12/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,021

Applicant(s)

EHRICH ET AL.

Examiner

HO SHIU

Art Unit

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-8,10,11,13-15,17,18,20 and 21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 3-4, 6-8, 10-11, 13-15, 17-18, and 20-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1, 3-4, 6-8, 10-11, 13-15, 17-18, and 20-21 are pending in this application. Claims 22-24 have been cancelled by Applicant by amendment filed on 10/01/2008.

Claim Objections

2. Claim 18 is objected to since it claims dependency from claim 10. Examiner believes that this is a typographical error and applicant wishes to have claim 18 claim dependency from claim 17. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 3-4, 6-8, 10-11, 13-15, 17-18, and 20-21 are rejected to for not particularly pointing out and distinctly claiming the subject matter rendering the claim indefinite.

5. In claims 1, 8, and 15, claims recite “non-intrusively” with respect to extracting the competitive data from the page of data. It is not clear how the applicant is extracting the competitive data non-intrusively. Therefore, the applicant does not clearly define what non-intrusively is and renders the claim indefinite. For examination purposes,

“non-intrusively” with respect to extracting the competitive data non-intrusively from a page of data at the client will be considered as being able to read the competitive data from the page of data at the client.

6. In claims 3-4, 6-7, 10-11, 13-14, 17-18, and 20-21, they are dependent claims of claims 1, 8, and 15 and therefore are rejected for the same reasons above as claims 1, 8, and 15.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1, 4, 6, 8, 11, 13, 15, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stack in view of Garg and in further view of Kitada et al (US Patent # 7,216,070 B2, hereinafter Kitada) and in view of official notice.**

9. With respect to claims 1, 8, and 15, Stack discloses a method, system, and program sending a request from a client to a portal over a computer network (col. 5, lines 43-49, lines 58-67); wherein the page of data includes competitive data (Fig. 5, #540, col. 6, lines 1-4), provider data (col. 6, lines 7-11), and an embedded program

(Fig. 5, #560, col. 6, lines 1-11), the competitive data generated by a competitor server (col. 6, lines 1-4) and the provider data generated by a provider server (col. 5, lines 50-53); non-intrusively extracting the competitive data from the page of data (col. 3, lines 45-67, col. 4, lines 1-15); comparing the extracted competitive data with the provider data (col. 6, lines 1-25); and automatically changing the provider data at the client in response to the comparing of the competitive data with the provider (col. 6, lines 26-29).

However, even though Stack discloses the claimed invention, Stack does not clearly disclose one or more processors; a memory accessible by the processors; one or more nonvolatile storage devices accessibly by the processors; and the fact that the client receives a page of data in response to the request of a price comparison.

In the same field of endeavor, Garg discloses one or more processors ([0032]); a memory accessible b the processors([0096], [0097]); one or more nonvolatile storage devices accessibly by the processors ([0097]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Stack with the teachings of Garg in order for the control module to be implemented using a central processing unit that executes or runs a computer readable program code.

However, even though Stack and Garg discloses the claimed invention, they do not clearly disclose that the client receives a page of data in response to the request for a price comparison.

In the same field of endeavor, Kitada in col. 15, lines 29-39 discloses that business applications that ran on mainframe computers are using client computer's

computing power to offload the mainframe from data processing, resulting in a more efficient use of the resources and better overall performance. Also, Garg discloses in [0093] that the auction mechanisms and/or software-based agents for bidding either be complemented as a standalone program running on the user's computer, subroutines that are a part of the auction website or as a software code which executes on a generic public infrastructure such as computer servers.

The examiner takes official notice that it would have been obvious at the time the invention was made to combine the teachings of Stack, Garg and Kitada which promotes advantages to utilize the client's computing power by sending a page of data with an embedded program to the client along with a vendor (provider) data and competitive data from the host computer and then executing the embedded program to automatically adjust the vendor's pricing by comparing the vendor data with the competitive data at the client after a request has been made to the host computer for a price comparison as disclosed by Stack in order to offload the mainframe from data processing, resulting in a more efficient use of the resources and better overall performance.

10. With respect to claims 4, 11, and 18, Stack discloses receiving the competitive data at the provider server (col. 5, lines 64-67, col. 6, lines 1-2); comparing the competitive data with the provider data (col. 6, lines 1-25); determining whether to change the provider data in response to the comparing (col. 6, lines 1-25); changing the provider data in response to the determination, the changing resulting in changed

provider data (col. 6, lines 1-25; and sending the changed provider data to the client over the computer network ((col. 6, lines 1-25).

11. With respect to claims 6, 13, and 20, Stack discloses the competitive data is selected from the group consisting of a data value, a domain, a page position, and a display attribute (col. 6, lines 1-25).

12. Claims 3, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stack in view of Garg in further view of Kitada in further view of official notice and even further view of Ferreira (US Pub # 2005/0065853 A1) .

13. With respect to claim 3, 10, and 17, Stack, Garg, and Kitada does not clearly disclose the embedded program is further adapted to send the competitive data over the computer network to the provider server.

In the same field of endeavor, Ferreira discloses the embedded program is further adapted to send the competitive data over the computer network to the provider server ([0022], lines 1-14).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Stack, Garg, Kitada and official notice with the teachings of Ferreira in order to notify the dealer that new information is available in order to efficiently incorporate vital information into the

calculations/analyzed data.

14. Claims 7, 14, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stack in view of Garg in further view of Kitada in further view of official notice and even further view of Hidaka et al. (US Pub # 2004/0030687 A1, hereinafter Hidaka).

15. With respect to claim 7, 14, and 21, Stack, Garg, and Kitada does not clearly disclose the embedded program is further adapted to extract a provider page position, the provider page position corresponding to the location of the provider data on the page of data.

In the same field of endeavor, Hidaka disclose the embedded program is further adapted to extract a provider page position, the provider page position corresponding to the location of the provider data on the page of data ([0037], [0042], [0049]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Stack, Garg, Kitada and official notice with the teachings of Hidaka in order to be able to collect information from an HTML page that is not easily read by a machine ([0013]).

Response to Arguments

16. Applicant's arguments, with regards to claims 1, 3-4, 6-8, 10-11, 13-15, 17-18, and 20-21 have been considered by are moot in view of the new ground(s) of rejection.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HO SHIU whose telephone number is (571)270-3810. The examiner can normally be reached on Mon-Thur (8:30am - 4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit: 2457

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HTS
12/15/2008

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Patent Examiner
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